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TRAFFICKING IN PERSONS

REVIEW OF DEVELOPMENTS IN THE FIELD OF CONTEMPORARY FORMS OF SLAVERY AND MEASURES TO PREVENT AND REPRESS ALL CONTEMPORARY FORMS OF SLAVERY, INCLUDING THE STRUGGLE AGAINST CORRUPTION AND THE CONSIDERATION OF INTERNATIONAL DEBT AS PROMOTING FACTORS OF CONTEMPORARY FORMS OF SLAVERY

ACTIVITIES OF THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN

OTHER FORMS OF EXPLOITATION

Report of the Secretary-General

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Introduction

1. By its resolution 2000/19, the Sub-Commission for the Promotion and Protection of Human Rights, requested the Secretary-General to submit information on various slavery-related issues.

2. Pursuant to this resolution, the Secretary-General, on 15 December 2000, addressed requests to Governments and concerned intergovernmental and non-governmental organizations for information.

3. As of 7 May 2000, replies had been received from the Governments of Bahrain, Japan, Latvia and the Russian Federation.

4. Replies were also received from the Food and Agriculture Organization of the United Nations and the International Labour Office.

5. Information was also received from Pax Christi and Save the Children.

6. The present report contains the substantive replies received.

I. INFORMATION RECEIVED FROM GOVERNMENTS

Bahrain

[Original: Arabic]
[16 January 2001]

1. The State of Bahrain is not suffering from the phenomenon of child labour or the exploitation of children in any manner whatsoever. In fact, the State provides all the facilities and services needed to encourage children to continue their education until they reach the legal age for employment.

2. The Private Sector Employment Act promulgated in Legislative Decree No. 23 of 1976 contains a separate section (section VIII) on the employment of juveniles, article 50 of which prohibits the employment of persons of either sex under 14 years of age. Article 51 permits the employment of juveniles from 14 to 16 years of age on the following conditions:

(a) Authorization must be obtained from the Ministry of Labour and Social Affairs;

(b) They must undergo a medical examination to ensure their physical fitness before their entry into service and at periodic intervals thereafter. Their fitness is attested in a certificate the form of which is determined by the Minister of Health in agreement with the Minster for Labour and Social Affairs;

(c) They must not be employed in industries and occupations, designated by the Minister of Health in agreement with the Minister for Labour and Social Affairs, which are hazardous or harmful to their health.

3. In 1998, the State of Bahrain ratified Arab Labour Convention No. 18 concerning the employment of juveniles, to the provisions of which we are committed.

4. The Cabinet recently approved the State of Bahrain's ratification of International Labour Convention No. 182 prohibiting the worst forms of child labour and we will send you a copy of the Amiral Decree ratifying that Convention as soon as it is promulgated.

Japan

[Original: English]
[3 May 2001]

Japan submitted its country report for the meeting on the Asian regional initiative against trafficking in women and children, as follows:

I. PRESENT SITUATION OF SMUGGLING OF AND TRAFFICKING IN PERSONS IN JAPAN

1. The Immigration Bureau of the Ministry of Justice of Japan estimates that the number of illegal foreign nationals overstaying in Japan was 268,421 as of 1 July 1999, a 10 per cent decline from 298,646 as of 1 May 1993, which is the worst record. On the other hand, the cases of collective stowaways by sea from neighbouring countries such as China, or illegal entry using elaborately forged or altered travel documents are rapidly increasing. The number of illegal foreign nationals who were subject to deportation procedures due to illegal entry averaged 500 a year from 1985 to 1987, but gradually increased and reached 7,472 in 1998. There are activities of transnational criminal organizations behind the increase. Their smuggling techniques are becoming more and more sophisticated. For example, they introduce deferred payment systems of commission for smuggling to increase their clients, make secret rooms in the ships used for collective stowaways, change ships to fishing boats on the sea to escape investigation, and so on. They commit vicious crimes like murder, abduction, etc. due to trouble with the collection of the commission for smuggling, which is said to be 3 million yen. The police and the Maritime Safety Agency of Japan arrested 1,360 collective stowaways in 1997, 1,023 in 1998 and 770 in 1999.

2. Concerning the trafficking in women and children, the Japanese police dealt with 1,437 women foreign nationals involved in crimes relating to amusement business offences (prostitution offences, crimes of indecency, violations of the Amusement Business Law) in 1999. Of these, 617 were Korean nations, 331 Thai nationals, 184 Chinese nationals, 94 Columbian nationals. Brokers arrange the illegal entry of the women by using every possible technique such as forgery of passports, etc. and they loan them millions of yen and deprive them of their passports in order to prevent runaways. It became obvious that Japanese brokers connecting with brokers in the countries of origin are behind the trafficking in women and children. Almost all of them enter Japan with temporary visitor status or with the status of entertainer, or entered illegally and were illegally employed as prostitutes or hostesses in bars. Some were brought into the country by smuggling organizations and others not, but there are 104 women foreign nationals who borrowed money from smuggling organizations.

II. MEASURES AGAINST SMUGGLING OF AND TRAFFICKING IN PERSONS - RELEVANT LEGISLATION

A. Outline of the Law on Control and Improvement of Amusement Business

3. Concerning the prostitution offences involving recent amusement businesses such as snack bars, women foreign nationals working there were, in fact, forced to prostitute themselves due to a large amount of debt and deprivation of their passports. Japan amended the Law in April 1998 and provided the following measures from the viewpoint of the protection of foreign women:

(a) Additional causes for refusal of licence. A person who was imprisoned with labour for not more than one year from the crime of assisting illegal employment should not be given a licence for an amusement business for five years;

(b) Reinforced monitoring, in order to prohibit owners or managers of businesses serving food, drink, etc. for entertainment, store-type sex-related amusement business and businesses employing women on commission to entertain customers allowing their employees to accumulate a large amount of debt under the condition of immediate full refund when they leave the job, and from depriving them of their passports.

B. Law for punishing acts related to child prostitution and child pornography, and for protecting children

4. The Japanese Diet enacted the Law in May 1999 in order to protect the rights of children (under the age of 18 years) by prescribing punishment for acts related to child prostitution and child pornography, and by establishing measures including the giving of appropriate protection to children who have suffered physically and/or mentally from the said acts, in light of the fact that sexual exploitation and sexual abuse of children seriously infringe upon the human rights of children. The major punishments are as follows:

(a) Child prostitution - imprisonment with labour for not more than three years or a fine of not more than 1 million yen;

(b) Intermediation of child prostitution - imprisonment with labour for not more than three years or a fine not exceeding 3 million yen. In the case of child prostitution as a business, imprisonment with labour for not more than five years and a fine not exceeding 5 million yen;

(c) Distribution, sale, display in public, etc. of child pornography - imprisonment with labour for not more than three years or a fine not exceeding 3 million yen;

(d) Crimes of child prostitution and child pornography committed by Japanese nationals outside Japan shall be dealt with under article 3 of the Penal Code, which prescribes punishment for crimes commited by Japanese outside Japan.

5. Japanese police arrested 613 persons for child prostitution, etc. and 164 persons for distribution of child pornography and so on in 2000.

C. Amendment of Immigration Control and Refugee Recognition Act

6. The Immigration Control and Refugee Recognition Act was amended in 1997 to incorporate new penalties and necessary measures to severely punish those who assist and aid in stowaways, and this has had some effect. But illegal migrants still continued to flow into Japan, so the Act was amended again to be effective from 18 February 2000. The major amendments are as follows:

(a) Illegal stay has newly been criminalized. Any alien who has committed an illegal entry or landing into Japan and remains in Japan shall be subjected to punishment for the entire duration of the illegal stay, effective the date of the revised Act. Any individual who resides illegally in Japan shall be subjected to punishment under this new Act;

(b) The period of refusal of landing has been extended. Any alien who was deported from Japan due to illegal overstay or landing and the like cannot enter Japan for "a period of one year", however, after the amendments, any alien who was deported from Japan for the same reason will not be able to enter Japan for "a period of five years".

D. Law for Punishment of Organized Crime, Control of Criminal Proceeds and Other Matters, adopted in 1999

7. In order to control the proceeds of crime committed for the purpose of obtaining unlawful benefit, used for the maintenance or expansion of criminal organizations or further utilized for the commission of another crime and thus contributing to the increase of organized crime, this new law introduces various provisions such as extending the offences related to money laundering to many serious crimes, including assisting illegal employment of aliens, smuggling of stowaways in a group, assisting illegal entry, receiving of stowaways in a group and harbouring of aliens who have entered illegally for the purpose of profit, and allows other measures to be taken against those proceeds, such as their confiscation.

E. Law Concerning Interception of Electronic Communications in Criminal Investigations, adopted in 1999

8. This law provides for measures to intercept electronic communications to investigate offences relating to drugs or firearms, smuggling of stowaways in a group and organized murder.

III. STRENGTHENING THE INVESTIGATION OF LAW ENFORCEMENT AGENCIES

9. Cooperation among law enforcement agencies (Japan Police Agency, Immigration Bureau and Maritime Safety Agency) has been reinforced and joint operations promoted.

10. Cooperation and joint operations with the law enforcement agencies of countries of origin have also been promoted.

11. A meeting of security-related officials was held between Japan and China based on the agreement reached at the two-country summit. It succeeded in promoting the establishment of a cooperative relationship between the police agencies of the two countries. In a joint operation with the Hong Kong police authorities in 1997, and the Canton and Hong Kong police authorities in 1998, members of Chinese smuggling gangs were arrested.

12. A successful example of arresting members of an organization that trafficked Thai women was the following. An immigration control officer of Narita Airport found Thai women trying to enter Japan with forged passports and detained them in April 1998. Then Japanese police, in cooperation with Thai police, arrested six Japanese brokers (two leaders living in Thailand, two persons transporting women to Japan and two procurers) of trafficking organizations for the offences of assisting in illegal employment and assisting in illegal entry. They also arrested eight Japanese managers of amusement businesses for prostitution offences,

etc. Two Thai brokers are still wanted. Over 20 trafficked Thai women were found in this case and almost all of them were in debt for about 4 million yen for their illegal entry. This case, which included four children, was one of the most well organized and serious crimes that the Japanese police have successfully concluded.

IV. EXAMPLES OF JAPANESE INITIATIVES

A. Asia-Pacific Symposium on Trafficking in Persons

13. The Ministry of Foreign Affairs, in cooperation with the Japan Police Agency and the Ministry of Justice, held the Symposium in Tokyo on 20 January 2000. The primary objective of the Symposium was to deepen the understanding of the participants from Japan and other countries in the Asian-Pacific region of the actions being taken by the international community. They discussed the present situation, the measures against trafficking and the protection of victims. There were over 100 participants from around 20 countries, mainly of the Asian-Pacific region, embassies and offices of international organizations in Tokyo, and government officials, intellectuals, NGOs and the press.

B. Seminar on Prevention of Passport Forgery

14. Japan has held this seminar once a year since 1997, inviting director-level officials of the passport issuing authorities of China, Indonesia, the Republic of Korea, Malaysia, the Philippines, Singapore and Thailand.

C. Seminar on Immigration Control

15. Japan has held this seminar once a year since 1987, inviting representatives of the immigration authorities of those countries/regions in the Asian-Pacific region to exchange information or views on the current trends of migration.

D. Seminar on Document Examination

16. Japan has held this seminar annually since 1995, inviting specialists on travel document examination from the Asian-Pacific region to exchange information on fraud techniques and show how to use identification machines for document examination.

17. Japan is providing machines and dispatching experts on criminal investigation to developing countries as a part of official development assistance.

Latvia

[Original: English]
[19 April 2001]

1. To preclude the possibility of any contemporary form of slavery in the Republic of Latvia, increased attention is focused on this topic in the aspect of both international rights and national legislation.

2. The following international treaties pertaining to the above-mentioned issue are in force in the Republic of Latvia:

Universal Declaration of Human Rights of 10 December 1948 (in force as of 24 March 1992);

Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others of 2 December 1949 (in force as of 13 July 1992);

European Convention of Human Rights of 4 November 1950 (in force as of 27 June 1997);

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 7 September 1956 (in force as of 14 April 1992)

and other international acts on human rights.

3. The following national legislative provisions pertaining to the above-mentioned issues are in force in the Republic of Latvia;

Article 106 of the Constitution of the Republic of Latvia which prohibits employment by force;

The criminal law includes provisions that indirectly imply criminal responsibility for slavery (article 164 "Compulsion to Prostitute", article 165 "Trafficking of Persons for Sexual Exploitation").

4. It is intended to incorporate a new article, "Trafficking of People", into the Criminal Law which would provide for criminal responsibility for trafficking of people for exploitation purposes, i.e. for the purpose of engaging the person in prostitution or other sex work, compulsory work or services, slavery or slavery-like practices, servitude, or using the person as a donor of organs.

5. Consultations are taking place between Latvian and Danish experts on the return of Latvian women engaging in prostitution abroad, on special measures and social services pertaining to their rehabilitation and, in case of need, provision of a temporary place of residence. The intention is also to use the potential of public organizations in the rehabilitation of victims of sexual exploitation and their social integration.

Russian Federation

[Original: Russian]
[25 January 2001]

1. The Russian Federation is a party to the Convention on the Rights of the Child and to International Labour Organization Conventions No. 29 (Convention concerning Forced Labour) and No. 138 (Convention concerning Minimum Age for Admission to Employment). It is at present contemplating ratification of ILO Convention No. 182 (Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour).

2. The Constitution of the Federation includes a clause banning forced labour which covers all citizens, including children. The provision is supplemented by special legislation regulating child labour. It is based on recognition of the right of the child to be protected against doing any work that may be prejudicial to its health, harm its physical, mental, spiritual or moral development, or impede its gaining an education.

3. The State is taking measures to counter the exploitation of children and adolescents and their use on work that endangers their physical and moral health and hinders them in obtaining an education and so forth. The fundamentals of legislation of the Russian Federation on labour protection, adopted in 1993, established general and special standards (the latter applying to young people) protecting labour and guaranteeing labour safety. Amendments to the Labour Code in 1995 extended the rights of juveniles in the sphere of employment and brought the regulation of their labour safety closer to world standards. Provisions governing these matters are also included in the Education Act of the Russian Federation and in other legislation.

4. The Labour Code of the Russian Federation prohibits use of the labour of anyone less than 18 years old on work that is dangerous or harmful to the physical health of the child, or that may harm its moral development or impede its gaining an education. The schedule of kinds of work on which the employment of juvenile labour is prohibited was extended in 1995. In addition to work underground and heavy work under harmful and dangerous working conditions, the list includes work that may have a pernicious effect on the moral development of an adolescent (gaming, cabarets and nightclubs; the production, transport and sale of spirits, tobacco products, narcotics and toxic chemicals).

5. The minimum age for engagement in employment is set by labour legislation at 15 years. Juveniles may be engaged for temporary work from the age of 14 in preparation for productive work and for adaptation to market conditions, provided that so doing does not interfere with their education and is approved by their parents or guardians. Persons under 18 are treated as adults but have certain privileges in the sphere of labour protection, the number of hours worked, holidays and some other working conditions.

6. Juveniles must undergo a preliminary medical examination before being engaged for work and must thereafter undergo annual compulsory medical check-ups until the age of 18. The cost of the medical examinations is borne by the employer.

7. The length of the working week is limited, for workers under the age of 18, to no more than 36 hours between the ages of 16 and 18, and to 24 hours for workers between the ages of 15 and 16 and for 14- and 15-year-old working during the school holidays. The hours worked by pupils in their free time during the school year must not exceed half the norm laid down for persons of the corresponding age. The amount of annual paid leave for workers aged under 18 is set at no less than 31 calendar days; for workers over the age of 18 it is set at 24 working days calculated on the six-day working week.

8. The new Labour Code lays down punishments of up to two years' imprisonment for violations of labour protection rules, including those designed to protect the health of minors hired to work at any enterprise (State, municipal, private etc.).

9. A system of job quotas has been introduced to facilitate the job placement of school leavers from general schools and from primary and secondary special education, thereby affording a stronger guarantee of juveniles' right to work. Persons under 18 years of age, in special need of social protection and experiencing difficulty in finding work (orphans, former inmates of children's homes, children deprived of parental care etc.) are entitled to priority in job applications. Refusal of employment under the quota system may be appealed before the courts. If the refusal is found to be unwarranted, proceedings may be brought against the employer.

10. Juveniles in employment enjoy special benefits as regards payment. Those employed full-time receive the same pay for their reduced working day as workers in the corresponding categories get for a full working day.

11. Steps have been taken to reduce unpaid work by juveniles. The 1996 Education Act prohibits the engagement of pupils in work not covered by their educational curriculum without their and their parents' consent.

12. Compliance with these provisions of labour law as they relate to minors is verified by special bodies. State supervision and control is carried out by the State Labour Inspectorate of the Ministry of Labour and Social Development, which is entitled to impose administrative penalties on employers who infringe juveniles' labour rights or to forward information about them so that criminal charges can be brought. Compliance with juveniles' labour rights is also checked by district commission on juvenile affairs. Overall supervision of compliance with labour legislation, including provisions to protect juveniles from economic exploitation, is conducted by the Office of the Procurator, which carries out regular checks. The results are widely publicized, discussed at seminars by labour protection staff and in committees and commissions at the oblast, territorial and national-level executive authorities, and embodied in directives aimed at improving working conditions for juveniles.

13. New, special programmes, including programmes run by local employment authorities, are being carried out to address the problem of job placement for adolescents while complying with all legislative requirements and preventing economic exploitation. A temporary adolescent employment programme which has been in operation since 1995 helps to provide juveniles with temporary employment both during the school holidays and in time not occupied by studies throughout the school year. Under a "work experience" programme, 2,000 or so minors aged 16 and upwards are found permanent jobs every year.

II. INFORMATION RECEIVED FROM UNITED NATIONS ORGANS AND BODIES

Food and Agriculture Organization of the United Nations

[Original: English]
[22 February 2001]

1. Inequitable access to land and other resources, along with a lack of legal protection and political will, can allow the exploitation of the landless and other vulnerable and disadvantaged members of society through bonded labour and debt bondage. Feudalistic land tenure practices result in people being trapped into bondage, with rich landowners at times falsely accusing labourers of having taken out loans. Slavery can also occur in pastoral and nomadic tenure systems.

2. The promotion of more equitable access to land and other natural and economic resources is crucial for the eradication of debt bondage. Land reform and land tenure reform can thus play an important role in the rehabilitation and reintegration of victims but unless reforms are sustainable, disasters such as extended droughts, illness, etc. will drive beneficiaries back into debt. Eradication of bonded labour also requires more effective enforcement of legislation to prevent exploitation of tenants and farm labourers and greater education of labourers about their rights. Since cultural practices as well as poverty perpetuate debt bondage, these actions must be accompanied by broader societal reforms.

3. FAO, through the Land Tenure Service of its Rural Development Division, stands ready to contribute to a seminar or a workshop to determine the best practices for the eradication of debt bondage, should one be organized by the International Labour Organization.

International Labour Office

[Original: English]
[12 April 2001]

1. The ILO referred to the Report of the Committee of Experts on the Application of Conventions and Recommendations, submitted to the 89th session of the International Labour Conference, 2001.

2. In paragraphs 72 to 81 of its General Report, the Committee deals specifically with the problem of trafficking in persons. It also formulated a general observation concerning this subject under the Forced Labour Convention, 1930 (No. 29), intended to elicit information from all States bound by the Convention on measures taken or contemplated to ensure that, in practice, those responsible for trafficking in persons can and will indeed be strictly punished, and that trafficking in persons is really suppressed.

3. The Committee also addressed the issues of debt bondage, prostitution and sexual exploitation of children, child servitude, and trafficking of women and children, as well as

various forms of slavery and slavery-like practices in its observations concerning particular countries which have ratified Convention No. 29 (such as India, Sri Lanka, the Sudan and Thailand).

III. INFORMATION RECEIVED FROM NON-GOVERNMENTAL ORGANIZATIONS

Pax Christi International

[Original: English]
[2 January 2001]

Pax Christi International provided a brief summary of two documents entitled, respectively, "The social and economic dimension of migration in Europe" and "Humane migrant labour-make it work!" The first document discusses demographic and economic issues in relation to migrant labour in the European Union and the second is a booklet published in 1999 which contains various concerns and recommendations on the issue of migrant labour, as well as a brief summary of the problems and challenges in developing an ethical framework of justice and solidarity in the context of migrant labour. The documents are available for consultation with the secretariat.

Save the Children

[Original: English]
[25 April 2001]

1. Trafficking in Women - Save the Children, the International Organization for Migration (IOM) and the International Catholic Migration Commission (ICMC) have conducted new research into the trafficking of women and children from and through Albania into Western Europe. Both reports demonstrate that Albania plays a major role in the ever-growing trafficking trade and little has been done in the country to address the situation.

2. The report, "Child Trafficking in Albania", is the first detailed study of the trafficking of under-18-year olds (and also women) from Albania. The report concludes that thousands of women and children have been tricked or abducted and forced to work as prostitutes abroad. It was also found that this recruitment still occurs on a daily basis. The report contains important up-to-date research on recruitment methods and routes and trafficking hot-spot areas. It also identifies the at-risk groups that could become victims of trafficking and makes recommendations for public awareness and prevention programmes.

3. The report reveals egregious abuses of Albanian children's rights due to trafficking and fear of being trafficked. According to the report, at least 60 per cent of Albanians trafficked for prostitution are children, though the number in some areas is as high as 80 per cent. Of those trafficked, almost 60 percent are tricked into prostitution, while 35 per cent are abducted. Furthermore, up to 90 per cent of girls over the age of 14 no longer attend school in some rural areas due to fear of being trafficked.

4. The report sheds new light on the levels of violence and sexual exploitation suffered by the victims. It is based on the testimonies of 125 women who were assisted last year by IOM and ICMC. It states that 73 per cent of the victims, most of them Moldovans or Romanians, were tricked by traffickers into believing they were going to Europe to get jobs as waitresses, nannies or au pairs. The report says that 18 per cent of the victims had been kidnapped and 32 per cent had been raped and beaten into submission. A further 73 per cent said they suffered intimidation and confinement.

5. The report also reveals that women were "traded" several times on their way to Europe, with prices increasing at each "transaction". According to the report, 93 per cent of the women trafficked in Albania transited through Montenegro before entering Albania via the northern town of Shkodra. The report notes that in 10 percent of the cases, the local Albanian police was directly involved.

6. Save the Children, IOM and ICMC believe the evidence in the report demonstrates that trafficking in and through Albania of women and children remains a very major and disturbing problem and despite the efforts of the Albanian authorities, traffickers continue to operate with virtual impunity. All three organizations call on the Government of Albania and international bodies to consider the evidence and take the necessary steps to deal with this serious and barbaric situation.